

Senate Bill No. 614

Passed the Senate September 10, 2009

Secretary of the Senate

Passed the Assembly September 8, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 72401, 72420.1, 72421, 72430, and 72441 of, and to amend and repeal Section 72440 of, the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

SB 614, Simitian. Vessels.

(1) Existing law prohibits an owner or operator of a large passenger vessel or oceangoing ship from releasing or permitting anyone to release specified substances from the vessel or ship into the marine waters of the state or a marine sanctuary. Existing law excludes from those requirements a large passenger vessel or oceangoing ship that operates in the marine waters of the state, as that term is defined, solely in innocent passage, and discharges made for the purpose of securing the safety of the vessel or ship or saving life at sea if specified precautions are taken. The act provides that for purposes of that exclusion, a vessel is engaged in innocent passage if its operation in state waters would constitute innocent passage under specified conventions.

This bill instead would provide that for purposes of that exclusion, a vessel is engaged in innocent passage if its operation in the marine waters of the state would constitute innocent passage under those specified conventions.

(2) Existing law requires certain statutes relating to the release of sewage from specified vessels traveling in the marine waters of the state to be repealed on January 1, 2010.

This bill instead would extend the operation of these statutes to January 1, 2014. This bill would also make other conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 72401 of the Public Resources Code is amended to read:

72401. (a) The Legislature finds and declares that the protection and enhancement of the quality of the marine waters of the state requires that the release of sewage from large passenger

vessels, and the release of sewage and graywater from oceangoing ships with sufficient holding tank capacity, into the marine waters of the state should be prohibited.

(b) The Legislature intends to request the Congress of the United States to amend the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 and following) to provide California with authority similar to that granted to the State of Alaska by Public Law 106-554, to regulate the release of sewage from large passenger vessels and oceangoing ships in the marine waters of the state.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 2. Section 72420.1 of the Public Resources Code is amended to read:

72420.1. (a) If the Administrator of the United States Environmental Protection Agency approves the application for sewage release made pursuant to subdivision (a) of Section 72440, or if the board determines that an application is not required, an owner or operator of a large passenger vessel may not release, or permit anyone to release, any sewage from the vessel into the marine waters of the state.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 3. Section 72421 of the Public Resources Code is amended to read:

72421. (a) The owner or operator shall notify the California Emergency Management Agency immediately, but not longer than 30 minutes, after discovery of any of the following:

(1) A large passenger vessel release of graywater into the marine waters of the state.

(2) Until January 1, 2014, a large passenger vessel release of sewage into the marine waters of the state or a marine sanctuary.

(3) A large passenger vessel or oceangoing ship release of hazardous waste, other waste, sewage sludge, or oily bilgewater into the marine waters of the state or a marine sanctuary.

(4) An oceangoing ship with sufficient holding tank capacity release of sewage or graywater into the marine waters of the state or a marine sanctuary.

(b) The owner or operator shall include all of the following in the notification required pursuant to subdivision (a):

- (1) Date of the release.
- (2) Time of the release.
- (3) Location, by latitude and longitude, of the release.
- (4) Volume of the release.
- (5) Source of the release.
- (6) Remedial action taken to prevent future releases.

(c) The California Emergency Management Agency shall transmit the notification required by subdivision (a) to the board and the Department of Fish and Game immediately, but not longer than 30 minutes, after receiving the notification.

SEC. 4. Section 72430 of the Public Resources Code is amended to read:

72430. (a) A person who violates Section 72420 or 72420.2, or until January 1, 2014, Section 72420.1, is subject to a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate from, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law.

(c) In determining the amount of a civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court shall consider the degree of toxicity and volume of the release, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of a civil penalty on the ability to continue in business, all voluntary cleanup efforts undertaken, the prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and all other matters the court determines justice may require.

(d) (1) A civil action brought under this section may only be brought in accordance with this subdivision. That civil action may be brought by the Attorney General upon complaint or request by the Department of Fish and Game or the appropriate California

regional water quality control board, or by a district attorney or city attorney.

(2) Notwithstanding Section 13223 of the Water Code, a regional water quality control board may delegate to its executive officer authority to request the Attorney General for judicial enforcement under this section.

(3) If a district attorney or city attorney brings an action under this section, the action shall be in the name of the people of the State of California.

(4) An action relating to the same violation may be joined or consolidated.

SEC. 5. Section 72440 of the Public Resources Code, as amended by Section 10 of Chapter 292 of the Statutes of 2006, is amended to read:

72440. (a) (1) The board shall determine whether it is necessary to apply to the federal government for the state to prohibit the release of sewage or sewage sludge from large passenger vessels, sewage from oceangoing ships with sufficient holding tank capacity, and sewage sludge from oceangoing ships, into the marine waters of the state or to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into marine sanctuaries, as described in Section 72420 and subdivision (a) of Section 72420.1. If the board determines that application is necessary for either sewage or sewage sludge, or both, it shall apply to the appropriate federal agencies, as determined by the board, to authorize the state to prohibit the release of sewage or sewage sludge, or both, as necessary, from large passenger vessels, sewage from oceangoing ships with sufficient holding tank capacity, and sewage sludge from oceangoing ships, into the marine waters of the state and, if necessary, to authorize the state to prohibit the release of sewage sludge from large passenger vessels and oceangoing ships into marine sanctuaries.

(2) It is not the Legislature's intent to establish for the marine waters of the state a no discharge zone for sewage from all vessels, but only for a class of vessels.

(b) The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of sewage sludge and oily bilgewater, except under the circumstances specified in Section 72441, by large passenger vessels and oceangoing ships,

in all of the waters that are in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary, that are not in the state waters.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 6. Section 72440 of the Public Resources Code, as added by Section 9 of Chapter 764 of the Statutes of 2004, is repealed.

SEC. 7. Section 72441 of the Public Resources Code is amended to read:

72441. (a) This division does not apply to either of the following:

(1) A large passenger vessel or oceangoing ship that operates in the marine waters of the state solely in innocent passage.

(2) Discharges made for the purpose of securing the safety of the large passenger vessel or oceangoing ship or saving life at sea, if reasonable precautions are taken for the purpose of preventing or minimizing the discharge.

(b) For the purposes of this section, a vessel is engaged in innocent passage if its operation in the marine waters of the state would constitute innocent passage under either the Convention on the Territorial Sea and Contiguous Zone, dated April 29, 1958, or the United Nations Convention on the Law of the Sea, dated December 10, 1982.

Approved _____, 2009

Governor